

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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RUFUS GIBBONS,

Civil Action No.:

Plaintiff,

NOTICE OF PETITION

- against -

CUENCA CORONEL TRUCKING INC. and “JOHN
DOE”, name fictitious, intended bring that of operator,

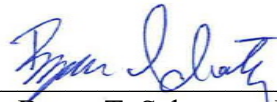
Defendants.
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PLEASE TAKE NOTICE that CUENCA CORONEL TRUCKING INC. and “JOHN DOE” hereby remove the civil action entitled RUFUS GIBBONS v. CUENCA CORONEL TRUCKING INC. and “JOHN DOE” Index Number 511392/2011, from the Supreme Court of the State of New York, County of Kings, where it is now pending to the United States District Court of the Eastern District of New York pursuant to 28 U.S.C. §§ 1332 and 1441.

Dated: New York, New York
July 2, 2021

Respectfully submitted,

GALLO VITUCCI KLAR LLP



By: Bryan T. Schwartz, Esq. (4517)
Attorneys for Defendants
CUENCA CORONEL TRUCKING INC. and
“JOHN DOE”
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File 30636

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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RUFUS GIBBONS,

Civil Action No.:

Plaintiff,

PETITION FOR REMOVAL

- against -

CUENCA CORONEL TRUCKING INC. and “JOHN
DOE”, name fictitious, intended bring that of operator,

Defendants.
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TO: JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

The Petition of Bryan T. Schwartz, Esq. respectfully shows as follows:

1. That the undersigned is counsel for Defendants CUENCA CORONEL TRUCKING INC. and “JOHN DOE” and hereby removes the civil action entitled RUFUS GIBBONS v. CUENCA CORONEL TRUCKING INC. and “JOHN DOE” Index Number 511392/2011, from the Supreme Court of the State of New York, County of Kings, where it is now pending to the United States District Court of the Eastern District of New York pursuant to 28 U.S.C. §§ 1332 and 1441.

2. This action was commenced by the filing of a Summons and Complaint on or about February 18, 2021 as against Cuenca Coronel Trucking Inc. And “John Doe”. A copy of the Summons and Complaint is annexed hereto as **Exhibit A**.

3. To date, Cuenca Coronel Trucking Inc. has not been served with the summons and/or complaint and only learned about the filing of the summons and complaint when Your Affirmant contacted Mauro Cuenca, the President and owner of Cuenca Coronel Trucking to inquire.

4. Your Affirmant received the complaint from Defendants' insurance carrier who received it by mail on June 17, 2021.

5. As of today, no answer has been filed.

6. That in the Complaint, Plaintiff seeks to recover damages for the personal injuries Plaintiff allegedly sustained as a result of the alleged negligence of the Defendants in their operation, management, maintenance and control of a certain vehicle that was involved in an accident on August 14, 2018 on Northern Boulevard, at or near its intersection with 34th Street, Queens, New York.

7. That Plaintiff is a natural person residing in the County of Kings, New York (See **Exhibit A** at ¶1).

8. Defendant Cuenca Coronel Trucking, Inc. is a New Jersey Corporation with its principal place of business and nerve center located in Clifton, New Jersey.

9. Diego Sacoto, the driver of the Cuenca Coronel Trucking dump truck who is referenced as "John Doe" in the Summons and Complaint, is a resident of Hudson County, New Jersey.

10. Neither Diego Sacoto nor "John Doe" have been served to date.

11. Plaintiff's Summons and Complaint states, "Due to the abovesaid, plaintiff is entitled to damages in the sum which exceeds the sum or value established by 28 USC §1332(a) exclusive of interest and costs," and therefore the amount in controversy exceeds \$75,000. (See Exhibit A at ¶22)

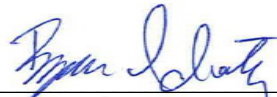
12. This action may be removed to this Court by Defendants Cuenca Coronel Trucking and John Doe pursuant to 28 U.S.C. §§ 1332 and 1441 since Plaintiff's action is a civil action, wherein the amount in controversy exceeds the sum of \$75,000 exclusive of interest and costs, and there exists complete diversity of citizenship amongst the Defendants and Plaintiff.

WHEREFORE, Defendants Cuenca Coronel Trucking and John Doe pray that the action now pending against them in the Supreme Court of the State of New York, County of Kings be removed therefrom to this Court.

Dated: New York, New York
July 2, 2021

Respectfully submitted,

GALLO VITUCCI KLAR LLP



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